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PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

TELEPHONES

MASS MIGRATION REQUIREMENTS

Proposed New Rules: N.J.A.C. 14:10-12

Proposed Repeal: N.J.A.C. 14:10-2.5

Authorized By: Board of Public Utilities, Jeanne M. Fox,
President, Frederick F. Butler, Connie
O. Hughes, and Jack Alter,
Commissioners.

Calendar reference: See summary below for explanation of
exception to calendar requirement.

Authority: N.J.S.A. 48:2-13

BPU Docket Number: TX05040349

Proposal Number: PRN 2005-

Submit comments by November 18, 2005

Kristi Izzo, Board Secretary
Board of Public Utilities
Attention Docket Number: TX05040349
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Board of Public Utilities (Board) is proposing new rules at N.J.A.C. 14:10-12 to govern the transfer of large numbers of end users between Telecommunications Service Providers (TSPs) when one TSP is about to depart from its service territory (this transfer is also known as mass migration). In addition, the Board is proposing to repeal N.J.A.C. 14:10-2.5, which requires facilities based carriers, that discontinue service to non-facilities based carriers, to provide notice of discontinuance to the end users of the

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non-facilities based carrier. This rule is being repealed in favor of the proposed rule. In particular, these rules would apply to TSPs involved in transfer of control, transfer of assets, and transfer of customer base, in cases where the customers are affected by the transfer and also in cases where the departing TSP's customer base is not being acquired by another TSP. These rules will ensure that end users of a TSP that is leaving its service territory will have the opportunity to switch to another TSP with sufficient advance notice to avoid disruption of their service. The proposed rules will promote the orderly transfer of large numbers of end users from a departing TSP to an alternative service provider by requiring the departing TSP to provide advance notice of its departure to its end users and other TSPs. Additionally, the requirements in the proposed rules will enable the Board to monitor events and assist parties with the migration, if needed.

The proposed rules would require any TSP that plans to leave any market within the State to file an exit plan with the Board at least 90 days in advance of cessation of service. In this exit plan, the TSP must detail the steps they will take to ensure that its end users have the opportunity to switch carriers before their service is disrupted. Specifically, the departing TSP must inform the Board of: 1) how the TSP will notify end users of the pending departure; 2) the steps the TSP will take to transfer its surplus telephone numbers back to the pooling administrator; 3) the number of end users impacted; 4) the proposed termination date; and 5) the TSP's plans for providing the new TSP with access to its end users' E-911 records. Further, the proposed rules, at 14:10-12.3(b)2viii, incorporate by reference the will require TSPs to follow the Central Office Code Assignment Guidelines, which provide standards for the assigning of thousand block(NXX-X) to service providers for use at a switching entity or point of interconnection which they own or control. These guidelines are available at the Alliance for Telecommunications Industry Solutions (ATIS) website, which can be found at www.atis.org. The guidelines were last updated in February 2005, but this incorporation by reference includes all future supplements and amendments to the guidelines.

In order to ensure the smooth transfer of end users between carriers, the Board will post appropriate contact information, and special instructions governing end user migration between TSPs on its website. This will provide TSPs with detailed information on the migration process at a centralized location. In addition, the Board will send out notification of the pending migration to TSPs operating throughout the State so they will have the opportunity to offer service to these end users.

The proposed rules would require the departing TSP to provide sufficient notice to their end users of their pending departure from the service territory. The departing TSP must send a notification letter to each end user, which would list the date of the TSP's departure from the service territory. In addition, the end user notification letter must clearly state the deadlines for the end user to choose an alternative carrier. Moreover, the end user notification letter must include a toll-free number which end users may call to receive information from the TSPs involved in the migration. Sample letters are provided in Appendix A located at the end of this subchapter. In addition, the FCC's

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rules on preferred carrier freezes, at 47 C.F.R. §64.1190 including all future supplements and amendments to those rules are incorporated by reference. These rules, in which TSPs must abide by, provide standards to prevent a change in a person's carrier unless the person gives their assent. These rules are available at <http://www.gpoaccess.gov/cfr/retrieve.html>.

In addition, the proposed rules will require TSPs involved in a migration to establish a project management team that will coordinate the flow of information to all the parties involved. The departing TSP must appoint a migration manager to oversee the TSP's departure from the market and ensure compliance with this subchapter. Any TSP accepting end users from the departing TSP must also appoint a project manager to ensure the smooth transfer of end users and compliance with this subchapter. The departing TSP must also provide the acquiring TSP with sufficient information about its network so the acquiring TSP can seamlessly transfer its new end users to its own network.

The proposed new rule, at 14:10-12.7 will require the departing TSP to provide a list of its end users to the Board, at least 60 days prior to its departure date. This end user list shall include detailed information about the end users, the type of service they receive from the TSP and identify priority end users. Moreover, the new rule requires TSPs to file progress reports with the Board at specified milestone dates which are set forth in 14:10-12.8. These progress reports will enable the Board to monitor the progress of the migration more closely and make sure that the TSPs are abiding by the requirements of the proposed new rule.

The proposed rule requires TSPs to abide by the requirements of the Thousands-Block Polling Administration Guidelines, Document number ATIS-PP-1000004, when making transfers of thousand block numbers. These guidelines define the switching system, Number Portability Database (NPDB), and Number Portability Global Title Translation (NP GTT) requirements for thousands Block Number Pooling. These guidelines are available at the Alliance for Telecommunications Industry Solutions (ATIS) website, which can be found at www.atis.org. The proposed rule incorporates by reference all future supplements and amendments to the guidelines.

In addition, proposed 14:10-12.10, requires departing TSPs to unlock their numbers contained in the E-911 database in accordance with NENA standards for local number portability located in section 22 of the NENA Data Standards For Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdiction and which may be obtained at www.nena.org. These standards provide TSPs with a format for data exchange that will enable another TSP to unlock the departing TSPs existing end users telephone numbers, including ported numbers, from the E-9-1-1 database. These standards were last updated on November 9, 2004, but this incorporation by reference includes all future supplements and amendments to the NENA standards for local portability.

TSPs are required, under the proposed rules at 14:10-12.11, to send a valid local service request to the ILEC or alternative TSP within the time specified in the rules.

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Further, the proposed rules require the ILEC to notify the TSP of any service order discrepancies that they encounter. This will enable the TSP to resolve those discrepancies prior to the date of departure. Further, the proposed rules contain an enforcement provision, at 14:10-12.13, which will subject make any entity that violates the requirements of these rules subject to penalties in accordance with the Board's regulatory and statutory authority. Appendix B, located at the end of this chapter, illustrates the sequence of events and deadlines required under the rules.

As the Board has provided a 60-day comment period on these proposed amendments, the proposed amendments are exempted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed rule will benefit TSP end users because it will require TSPs departing their service territories to provide their end users with timely notice of their departure and sufficient time to switch to a new carrier. In addition, the proposed rule establishes procedures that will ensure an orderly transfer of end users between carriers. These rules will ensure that end users are afforded ample opportunity to switch to another TSP when their current TSP is departing their service territory.

Economic Impact

The proposed mass migration rule will positively impact the State economy because it will reduce the level of uncertainty and confusion that end users and other TSPs face when their TSP discontinues service to the local market. Under the proposed rule, end users will be provided an opportunity to switch carriers prior to their TSP's departure from the service territory. Departing TSPs will have to pay the costs to provide notice of their departure to their end-users in order to comply with the requirements contained in the proposed rules. The associated costs for providing this notice would pay for mailings to end users and utilization of a database to ensure that all end users are notified. In addition, ILECS may be required to pay the costs to provide notices to end users where the departing TSP fails to provide such notice.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The new rules are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for these proposed rules.

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Jobs Impact

The Board does not anticipate that the proposed rules will have a discernible impact on jobs within the State. Although the proposed rules do require utilities to appoint employees to oversee the transfer of local end users, this should not result in an appreciable increase in hiring by utilities because the compliance requirements of the rule are not time-consuming.

Agriculture Industry Impact

The Board does not anticipate that the proposed rules will impact the agriculture industry within the State.

Regulatory Flexibility Statement

The proposed rules will impose record-keeping, reporting or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 employees. Currently, the New Jersey telecommunications industry is comprised of over 135 facilities-based service providers and several hundred companies that are licensed resellers, many of which are small businesses.

Numerous resellers and Local Exchange Carriers (LECs) are small businesses, however it is not known exactly how many are actually engaged in business because many have applied for licenses to operate as resellers or LECs but have not actually engaged in business in New Jersey. In addition the industry is fluid, with many resellers and LECs entering and leaving the market. The telecommunications resale market in New Jersey is in constant fluctuation and the Board can only provide an estimate of the number of resellers in the New Jersey market at any one time. The proposed rule will require these carriers to file information with the Board if they intend to depart their service territory, to share this information with other carriers and to provide notice to their end users of their departure from the service territory. However, the information required is readily available to the regulated parties so it is unlikely that a company would need to hire consultants or other assistance in order to comply with the rules. In addition, the TSPs and ILEC(s) will be responsible for the costs as discussed in the economic impact statement above.

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required is readily available to the regulated parties so it is unlikely that a company would need to hire consultants or other assistance in order to comply with the rules.

Smart Growth Impact

The Board anticipates that the proposed rules will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." These rules will apply uniformly Statewide and the Board does not expect that they will affect the location of future development. Therefore, the proposed rules will not impact smart growth or the State Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

[14:10-2.5 Discontinuance of service to end-users; notice

(a) In the event that a facilities based carrier discontinues service to a non-facilities based carrier whether switched or switchless for reasons of non-payment, slamming, violation of interconnection agreement terms and conditions, or violations of Federal or State law or Federal, State or Board rules, regulations or orders, the facilities-based carrier shall serve notice of such discontinuance on the end-users of the non-facilities-based carrier, if said end-users are known. This requirement shall not alter the obligation of the non-facilities based carrier to provide notice of discontinuance to its customer pursuant to N.J.A.C. 14:3-7.12. A copy of such discontinuance shall be sent to the Board.

(b) The notice required in (a) above shall comply with the provisions of N.J.A.C. 14:3-7.12.]

SUBCHAPTER 12. MASS MIGRATION UPON TSP DEPARTURE FROM A SERVICE TERRITORY

14:10-12.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise.

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"Acquiring TSP" means the Telecommunications Service Provider that has entered into an agreement with the departing TSP to acquire the departing TSP's end user base.

"Alternative TSP" means a TSP, other than the acquiring TSP, which has been selected by an end user of the departing TSP to be the end user's service provider after the departure of the departing TSP.

"ANAC" or "Automated Number Announcement Circuit" means a system that, when a person dials 958, plays an announcement stating the telephone number from which the person is calling.

"CLEC" or "Competitive Local Exchange Carrier" has the same meaning as is assigned to this term in N.J.A.C. 14:10-5.2.

"Cutover coordinator" means a person designated by the acquiring, or alternative, TSP, who is responsible for the line-by-line transfer of accounts from the departing TSP to the acquiring or alternative, TSP. The cutover coordinator works under the direction of the project manager, as defined herein.

"Cut-off date" means the date by which end users must select an alternative TSP or else be automatically transferred to the acquiring TSP, or, if there is no acquiring TSP, their service will be terminated.

"Departing TSP" means the Telecommunications Service Provider that is exiting its New Jersey service territory in whole or in part.

"End user" has the same meaning as is assigned to this term in N.J.A.C. 14:3-1.1.

"Firm order confirmation" or "FOC", also known as local service request confirmation (LSC), means a notification from the departing TSP or from a Network Service Provider to the acquiring TSP that the LSR, as defined herein, is correct and that the departing TSP has agreed to perform the work requested in the LSR.

"Full facilities-based" means a TSP that uses its own facilities, i.e., local loop, transport and switch(es), to provide telecommunications service to end users.

"ILEC" or "Incumbent Local Exchange Carrier" has the same meaning as is assigned to this term in N.J.A.C. 14:10-5.2.

"LEC" or "Local Exchange Carrier" has the same meaning as is assigned to this term in N.J.A.C. 14:10-5.2.

"LSR" or "Local Service Request" means an electronic or written communication that a TSP must send to a Network Service Provider and/or a departing TSP to request a transfer of, or a change to, an end user's existing service, including a change that involves the porting of a telephone number.

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“Migration manager” means a person designated by the departing TSP to coordinate end user migrations between the departing TSP and the Acquiring TSP or the Alternative TSP. The migration manager may be the Project Manager, as defined herein, for the departing TSP.

“NANPA” or “North American Numbering Plan Administrator” means the company selected by the FCC to consult with and provide assistance to regulatory authorities and national administrators to ensure that numbering resources are used in the best interests of all participants in the North American Numbering Plan.

“NENA” or “National Emergency Number Association” means the membership association whose mission is to promote research, planning, training and education to promote the implementation and improvement of 9-1-1 service.

“Network service provider” or “NSP” means a TSP that provides the network platform by which service is delivered to an end user.

“NXX code” has the same meaning as is assigned to this term in N.J.A.C. 14:10-1.18.

“Ported number” means a telephone number which was originally assigned to a network service provider and has a prefix relating to the original service provider's network, but which has been moved to a new network service provider.

“Program manager” means the person responsible for coordinating a mass migration, monitoring compliance with this subchapter, and ensuring communication between the participants in the mass migration. The acquiring TSP shall designate the program manager. The program manager shall be selected from one of the TSPs involved in the migration, and may or may not be an employee of the acquiring TSP.

“Project Manager” means a person assigned by each TSP involved in a mass migration:

- 1) To ensure that the TSP complies with this subchapter; and
- 2) To be the official point of contact assigned to represent each participant in the mass migration process.

“Resale Migration” means a mass migration that involves the reseller’s end users in the territory that is being exited by the Departing TSP.

“Reseller” means a telecommunications service provider that purchases telecommunications services from a facilities-based telecommunications corporation and provides those services to its own retail end users.

“Service order discrepancy” means any discrepancy between the information which the end user has supplied to the TSP and the information that a TSP has on file for that end user.

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"Telecommunications service provider" or "TSP" has the same meaning as is assigned to the term in N.J.A.C. 14:10-11.1.

"Unbundled Network Elements" or "UNE" means the components of an ILEC's telecommunications network that the ILEC is required, under 47 U.S.C.A. § 251(C)(3), to lease to CLECs on an unbundled basis.

"UNE-L" or "Unbundled Network Element Loop" means an unbundled network element (UNE) that is a local loop serving as a transmission facility between the main distribution frame (MDF) in an ILEC central office and the point demarcation at an end user's premises.

"UNE-P" or "Unbundled Network Elements Platform" means a combination of unbundled network elements which are used by a CLEC to provide local exchange service and associated switched exchange access, consisting of the local loop, transport and switching.

14:10-12.2 Purpose and scope

(a) This subchapter governs any TSP operating in New Jersey and intending to depart a service territory therein.

(b) This subchapter also governs other TSPs that may acquire the end users who will no longer be served by a departing TSP and ILECs that serve a departing TSP's end users.

(c) This subchapter sets forth requirements to ensure the orderly migration and/or transfer of end users from a departing TSP to another TSP.

14:10-12.3 Application to depart a service territory

(a) A TSP that intends to depart a particular service territory shall comply with the requirements and procedures set forth in this subchapter.

(b) At least 90 days prior to its planned departure date, a departing TSP shall file an application with the Secretary of the Board that includes all of the following:

1. A request for permission to abandon its provision of service; and
2. An exit plan that explains the steps the TSP will take to help facilitate the transfer of its end users to a new TSP. The exit plan shall include the following:
 - i. A supplement to either cancel or modify its tariff. If the supplement modifies the tariff, the supplement shall contain plans for transferring end users and preventing slamming problems;
 - ii. A sample of an initial letter to be sent to the departing TSP's end users in accordance with N.J.A.C. 14:10-12.5(a), informing them of the departure of the TSP and the end users' option to choose another TSP. The departing

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- TSP's letter shall contain all the information set forth in the sample letter in Appendix A to this subchapter;
- iii. A plan for a second notice to end users in accordance with N.J.A.C. 14:10-12.5(b), through a second letter;
 - iv. A proposed final departure date, on which the departing TSP must disconnect, or request that the underlying service provider disconnect, all end user accounts. The final departure date shall be at least one day after the deadline contained in the second notice to end users;
 - v. A cut-off date by which all of the departing TSP's end users must select another TSP or be left with no service. The cut-off date shall be determined in accordance with N.J.A.C. 14:10-12.6(i) and (j);
 - vi. The names, e-mail addresses, and telephone numbers of the cutover coordinator and project manager, as defined at N.J.A.C. 14:10-12.1;
 - vii. Any arrangements made by the departing TSP prior to submittal of the application, to switch end users to another TSP; and
 - viii. Steps to be taken by the departing TSP with NANPA to transfer NXX or thousand number blocks (if applicable), while preserving number portability for numbers within the NXX code. These steps shall comply with the Central Office Code (NXX) Assignment Guidelines, document number INC 95-0407-008, issued by the Alliance for Telecommunications Industry Solutions (ATIS), which are herein incorporated by reference, including any amendments and supplements, and can be found at www.atis.org;
 - ix. The departing TSP's end user-serving arrangements in effect at the time of the application filing, and the type of underlying service provider, e.g., UNE-P, resale, UNE-L or full facilities;
 - x. A list of end users or groups of end users for whom the departing TSP is the only provider of facilities;
 - xi. The number of end users who will no longer receive service from the departing TSP;
 - xii. A summary of the end user service records in the possession of the departing TSP, including:
 - (1) A statement of the data elements the end user service records contain;
 - (2) A statement about how the departing TSP will make the end user service records available to other TSPs; and
 - (3) A statement that indicates the format in which these records are kept;
 - xiii. An explanation of any transfer of assets or control of assets that requires Board approval, which is planned by the departing TSP;
 - xiv. Plans for dealing with end user deposits, credits, and/or termination liabilities or penalties; and
 - xv. Plans for unlocking the E-911 database, in accordance with N.J.A.C. 14:10-12.10.

(c) Upon receipt of an application, Board Staff will review the application and contact the petitioner regarding any deficiencies.

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(d) If the departing TSP believes that 90 days is not feasible for submittal of its application, it may request a modification of the timeline by making application to the Board Secretary. However, in all cases the application shall be submitted early enough to provide sufficient time to migrate the departing TSP's end users to other TSPs.

14:10-12.4 Board notice to other TSPs

(a) The Board will maintain a TSP service list on its website. The service list will include all of the full facilities-based TSPs operating within New Jersey. Each TSP is responsible for providing the Board with up to date information for the service list.

(b) Within seven business days after receiving an application to exit a service territory complying with N.J.A.C. 14:10-12.3 above, the Board shall:

1. Post a notice on the Board's website; and
2. Send a notice to the TSPs on the service list, informing them of the TSP's planned date of departure from the service territory under N.J.A.C. 14:10-12.3(b)2iv and the cut-off date under N.J.A.C. 14:10-12.3(b)2v.

(c) If the Board becomes aware of any issues concerning the processing of the migration, the Board shall notify TSPs operating within the State by posting this information and providing any pertinent information concerning these issues on the Board's website at www.bpu.state.nj.us.

14:10-12.5 Notice to end users

(a) A departing TSP shall provide notice of its departure to its end users at least 60 days prior to its planned departure date, through a letter that complies with this section.

(b) The departing TSP shall send a copy of the letter required under (a) above, via certified U.S. Mail, to the Board Secretary and the ILEC at the same time as the letter is sent to the departing TSPs end-users. In addition, the copy of the letter that is sent to the Board and the ILEC shall be accompanied by an attestation by an Officer of the departing TSP that such notice has been mailed to all end users.

(c) The departing TSP shall also send a second letter to its remaining end users, at least 30 days prior to its planned departure, that will notify the end users of their status and that they have the option to select an alternative TSP within 10 days.

(d) The departing TSP shall send a copy, via certified U.S. Mail, of the letter required under (c) above to the Board secretary and the ILEC at the same time as the letter is sent to the departing TSPs end-users. In addition, the copy of the letter that is sent to the Board and the ILEC shall be accompanied by an attestation by an Officer of the departing TSP that such notice has been mailed to all end users.

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(e) An end user notification letter used to comply with this section shall do the following, at a minimum:

1. Identify the acquiring TSP, if one exists;
2. Inform the end user of its right to choose an alternative TSP (that is, a TSP other than the acquiring TSP);
3. Provide clear instructions to the end user as to how to choose an alternative TSP;
4. If there is no acquiring TSP, inform the end user of the need to take prompt action to ensure continuation of service;
5. Provide a toll-free number for the departing TSP and, if one exists, for the acquiring TSP;
6. Clearly state the deadlines for end user action in accordance with this subchapter;
7. Provide applicable information about long distance service and whether it may be impacted by the migration; and
8. State the end user's responsibility for payment of telephone bills during the migration period.

(f) Appendix A contains four sample end user notification letters that may be used to provide notice to end users. Letter 1 is a sample letter which includes the information that the departing TSP must send to its end users when there is an acquiring TSP at least 60 days prior to the planned departure date. Letter 2 is a sample letter which includes the information that the departing TSP must send to its end users when there is no acquiring TSP at least 60 days prior to the planned departure date. Letter 3 is a sample letter which includes the information that the departing TSP must send to its end user when there is an acquiring TSP at least 30 days prior to the planned departure date. Letter 4 is a sample letter which includes the information the departing TSP must send its end users when there is no acquiring TSP at least 30 days prior to the planned departure date. The departing TSP may use these letters or may modify them, provided that the information required in this section is included in the letters.

(g) In the event a departing TSP fails to provide the notice to the Board required under N.J.A.C. 14:10-12.3 or to provide the notice to its end users required under this section, each ILEC that serves a departing TSP's end users shall, upon becoming aware that the departing TSP has failed to provide the notice to its end users of the mass migration as required under N.J.A.C. 14:10-12.5, provide notice of the departing TSP's pending departure to the departing TSP's end users, if these end users are known. The ILEC shall:

1. Notify the departing TSP's end users of the TSP's pending departure twice, using a letter such as that contained in Appendix A herein. The ILEC shall send the letters 55 days and 30 days prior to the planned departure date or, if the ILEC did not become aware of their obligation until after those dates, as soon as possible; and

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2. Notify the Board Secretary that the departing TSP's end users have been sent notice in accordance with (g)1 above. The ILEC shall send the notice to the Board simultaneously with sending the letters required in (g)1 above. The notice to the Board shall include:
 - a. A copy of the notice sent to the departing TSP's end users; and
 - b. A statement sworn to by an officer of the ILEC which attests that the notice required in (g)1 above was sent to all of the departing TSP's end users.

(h) An ILEC's compliance with the requirements at (g) above shall not relieve the departing TSP from the obligation to provide notice of its departure to its end users in accordance with the requirements of this subchapter.

14:10:12.6 Mass migration process

(a) The departing TSP shall designate a migration manager, who will be responsible for coordinating end user migrations between the departing TSP and the acquiring TSP.

(b) The acquiring TSP shall appoint a program manager for each mass migration. The program manager shall be selected from one of the TSPs involved in the migration, and shall be responsible for coordinating the migration, monitoring compliance with this subchapter, and ensuring communication between the participants in the mass migration.

(c) In addition to the migration manager and the appointed program manager, each of the TSPs and if applicable the NSP involved in the migration shall appoint a project manager who will ensure that the TSP complies with this subchapter.

(d) The departing TSP shall provide the following network information to the acquiring TSP and/or the alternative TSP(s) and the Board, at least 60 days prior to the planned departure date:

1. For a mass migration in which the departing TSP is a UNE-L or a full facilities-based TSP, , as defined at N.J.A.C. 14:10-12.1, the departing TSP shall provide the applicable circuit IDs and associated telephone numbers, as well as billing names, addresses and location addresses of all end users;
2. For a mass migration in which the departing TSP is a UNE-P or a reseller the departing TSP shall provide a billing name for each end user, and an address and telephone number with the associated working telephone number(s); and
3. For all mass migrations, any other information necessary to enable the acquiring TSP(s) or the alternative TSP(s) to migrate the departing TSP's end users seamlessly.

(e) In the event that the Board posts information on its website concerning mass migration processing issues, as mentioned under N.J.A.C. 14:10-12.4, a TSP, when notified of a mass migration shall:

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1. Review the information set forth on the Board's website at www.bpu.state.nj.us concerning issues arising out of the mass migration; and
2. If the Board has not posted information on the Board's website, contact the departing TSP's project manager for the information needed to complete the migration order(s).

(f) In accordance with Federal Communications Commission rules on Preferred Carrier Freezes at 47 C.F.R. §64.1190, including all future supplements and amendments to those rules which are incorporated by reference, the departing TSP shall lift any existing preferred TSP freezes on a line involved in a mass migration, before the first letter required under N.J.A.C. 14:10-12.5 is mailed to an end user. Therefore, an end user who wishes to have a preferred TSP freeze after a mass migration must contact their LEC to arrange a new freeze. The acquiring TSP, or the alternative TSP, shall be responsible for any TSP charges associated with the transfer of new end-users to it, except when there is no acquiring TSP or alternative TSP. When there is no acquiring TSP or alternative TSP, the end user shall be responsible for the charges associated with the transfer to a new TSP.

(g) There may be circumstances under which the requirements in this subchapter will require modification to accommodate unique circumstances. If the departing TSPs negotiate special procedures which will provide equivalent or better end user service as the requirements of this subchapter, the parties may request approval from Board staff to utilize these special procedures.

(h) Whenever there is an acquiring TSP involved in a mass migration, the acquiring TSP shall designate a cut-off date in accordance with (i) and (j) below.

(i) The acquiring TSP shall designate and announce the cut-off date early enough to ensure that:

1. The end user has sufficient time to choose an alternative TSP; and
2. The acquiring TSP has time to meet the requirements in this subchapter for communicating with the departing TSP's end users concerning the planned migration.

(j) If the departing TSP's end users are notified at least 60 days before the planned departure date by the departing TSP in accordance with N.J.A.C. 14:10:12.5(a) and (b), the cut-off date shall be at least 20 days before the planned departure date.

(k) If the departing TSP's end users are not notified at least 60 days before the departure date, the TSPs involved in the migration shall contact Board staff to determine the cut-off date. Board staff shall set the cut-off date depending upon the size of the migration and the notification timelines.

(l) If the departing TSP's end users are not notified within the time required under this subchapter, or if one or more end users do not select an alternative TSP:

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1. End users who have not selected an alternative TSP prior to the departure date shall be transferred to the acquiring TSP by the acquiring TSP; and
2. Whether or not there is an acquiring TSP, the ILEC shall disconnect all of the departing TSP's remaining end users on the cut-off date, however, in no event is an ILEC to disconnect an end user without first providing notice of disconnection in accordance with the requirements of this subchapter.

14:10:12.7 End user lists to be supplied by departing TSP

(a) At least 60 days prior to the projected cutoff date, the departing TSP shall submit an end user list to the Board. Board staff may waive this requirement at the departing TSP's request, if the mass migration is a simple resale serving arrangement with relatively few end users, and staff determines that it will not need the end user list for these or any other purposes.

(b) The end user list shall include:

1. End user name, including both listed name and billing name, where different from the listed name;
2. End user telephone number(s);
3. End user address, including both listed address and billing address, where different from the listed address;
4. End user class of service; and
5. Type of serving arrangements (UNE-P, resale, etc.).

(c) To the extent possible, end user lists shall also include an identification of "priority" end users. A TSP or ILEC shall provide additional notice to priority end users, in writing, at least 14 days prior to disconnecting service to a priority end-user and shall send a copy of this notice to the Board. For purposes of this subchapter, "priority" end users are the following:

1. Hospitals;
2. Ambulance services;
3. Police departments;
4. Fire stations;
5. National security facilities;
6. Civil defense facilities; or
7. Any end user who has obtained Telecommunications Service Priority from the Federal Communications Commission (FCC). The Telecommunications Service Priority program provides national security and emergency preparedness users priority authorization of telecommunications services that are vital to coordinating and/or responding to crises. The Telecommunications Service Priority program website may be found at <http://tsp.ncs.gov/>.

(d) TSP submission of end user lists and Board staff use of and/or disclosure of end user list information, shall be in accordance with the Board's rules implementing the

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New Jersey Open Public Records Act (OPRA) at N.J.A.C. 14:1-12. A copy of these rules is available on the Board's website at www.bpu.state.nj.us.

14:10:12.8 Progress reports

(a) The departing TSP shall file progress reports with the Board at the milestone intervals set forth in (c) below, to inform the Board as to whether the requirements of this subchapter have been met.

(b) Each progress report required by this section shall include all of the following information, as of the date the report is submitted:

1. The number of the departing TSP's end users that have been transferred to another TSP;
2. The name(s) of the TSP(s) to which the departing TSP's end users have transferred, if known to the departing TSP;
3. The number of end users that are still with the departing TSP;
4. A list of all end user customer accounts listed as "priority" under N.J.A.C. 14:10-12.7(c), that may be affected by the migration, including whether they have been transferred to another TSP; and
5. A list of any problems that have been encountered in complying with this subchapter, or with conducting the mass migration.

(c) The departing TSP shall file the first progress report required under this section 60 days prior to the planned departure date. The departing TSP shall file additional progress reports 30 and 10 days prior to the planned departure date, and shall file a final progress report on the departure date.

14:10:12.9 NXX code transfer

(a) If the departing TSP has any NXX codes or thousand number blocks assigned to it, the departing TSP shall make transfer arrangements with the North American Numbering Plan (for NXX codes), or the National Pooling Administrator (for one thousand number blocks). The departing TSP shall ensure that the transfer of NXX codes and thousand number blocks occurs at least 66 days prior to the planned departure date.

(b) The transfers required under this section shall be accomplished in accordance with the Central Office Code (NXX) Assignment Guidelines issued by the Alliance for Telecommunications Industry Solutions (ATIS), and Thousands-Block (NXX-X) Pooling Administration Guidelines, Document number ATIS-PP-1000004, developed by ATIS's Industry Numbering Committee, directed by the FCC to develop numbering procedures. These guidelines are available at atis.org.

(c) The departing TSP shall not disconnect NXX codes or thousand number blocks if any number within the range of numbers held by the TSP has been ported.

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14:10:12.10 E-911 Number unlocking

(a) A TSP that departs a service territory shall unlock all of its telephone numbers in the E-911 database, in accordance with the National Emergency Numbering Association standards, so as to provide the acquiring TSP or alternative TSP with access to the departing TSP's end users' E-911 records.

(b) In unlocking its E-911 numbers, the departing TSP shall comply with the National Emergency Numbering Association's ("NENA") standards for local number portability, contained in NENA Recommended Data Standards For Local Exchange Carriers, All Service Providers & 9-1-1 Jurisdictions - NENA 02-011, which is herein incorporated by reference, including any amendments and supplements and may be obtained at www.nena.org.

(c) In addition, the departing TSP shall submit a letter to the appropriate E-911 service provider, authorizing the E-911 service provider to unlock any remaining E-911 records after the TSP's departure. This letter shall be provided at least 30 days prior to the TSP's planned departure date.

14:10.12.11 Local Service Request

(a) The acquiring TSP or alternative TSP, as applicable, shall send a valid LSR, as defined at N.J.A.C. 14:10-12.1, to the ILEC and/or the alternative TSP at least 15 days prior to the planned departure date.

(b) In a migration in which the departing TSP is a UNE-P or a reseller, the Network Service Provider shall, upon receipt of a valid LSR, provide a FOC to the acquiring TSP or alternative TSP.

(c) In a migration in which the departing TSP is a UNE-L or full facilities-based TSP, the departing TSP shall, upon receipt of a valid LSR, provide a FOC to the acquiring or alternative TSP.

14:10.12.12 Notice of discrepancies

(a) In a resale or UNE-P migration, the ILEC shall notify the acquiring or alternative TSP of any service order discrepancies. In a UNE-L or full-facilities based migration, the departing TSP shall notify the acquiring TSP or alternative TSP of any service order discrepancies.

(b) The acquiring TSP shall take all appropriate actions required to correct any service order discrepancies.

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(c) The acquiring TSP shall evaluate and resolve any unresolved service order discrepancies, at least one day before the departure date.

14:10:12.13 Enforcement

(a) Failure to comply with any provision of this subchapter shall subject the violator to penalties in accordance with the Board's regulatory and statutory authority.

APPENDIX A Sample Notice Letters

Letter #1: Sample End user Notification Letter (with Acquiring TSP)

Date (60 days prior to planned departure date)

End user Name

Address

City, NJ zip

Re: Your Service will be Transferred to (Name of Acquiring TSP) Unless You Choose
A New Local Telephone Service Provider By (20 days prior to planned departure
date)

Dear Telephone Service Customer:

We regret to inform you that as of (planned departure date), XYZ Company will
no longer provide local telephone service in (their city). (Explanation of specific
company circumstances).

You have two options:

OPTION 1: You can select a different local telephone service provider on or
before (20 days prior to planned departure date). If you do this, XYZ
company will allow your service to be transferred to your selected provider
immediately, and you will assume responsibility for any charges associated
with the transfer of your account from XYZ Company to your selected local
telephone provider.

OPTION 2: You can do nothing, and let (name of acquiring TSP)
automatically become your local telephone service provider. If you do this,
XYZ company will transfer your service to (name of acquiring TSP) on (date).

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If you do not want service from (name of acquiring TSP), your action is required! You must choose option 1 and select a new local telephone provider as quickly as possible, AND no later than (20 days prior to planned departure date.)

IF YOU CHOOSE OPTION 1:

If you choose OPTION 1 and select a new local telephone service provider, you should also contact your local toll provider and your long-distance provider. Tell them to ensure that neither your current local toll plan nor your long distance calling plan is changed as the result of your change in local service. If you do not contact these providers, they may charge you different rates than before for local toll and long distance calls. You should also request that your new local telephone provider place any requested freezes on your account. However, if you choose OPTION 1 and select another provider of your choice, you will incur additional charges. If you choose to transfer your service to a telephone service provider other than (name of acquiring TSP), every effort will also be made to keep your telephone number and services the same as they are with (name of departing TSP).

IF YOU CHOOSE OPTION 2:

If you choose OPTION 2, you will not be charged for the change to (name of acquiring TSP).

Even if you choose OPTION 2, you will still keep the option to select another local telephone service provider in the future, but if you do select another provider in the future, there will be a delay in transferring your service to your selected provider until after the change to (name of acquiring TSP).

XYZ company will make every effort to transfer your telephone service to (name of acquiring TSP) in a way that will keep your local telephone number the same, and your existing local service and calling features will be transferred to (name of acquiring TSP).

If you have any questions regarding the discontinuance of XYZ Company's local telephone service, please call (toll free number). Questions regarding (acquiring TSP) should be directed to (toll free number of acquiring TSP). XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

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LETTER # 2 Sample End user Notification Letter (without Acquiring TSP)

Date (60 days prior to planned departure date)

End user Name

Address

City, NJ zip

Re: You Must Choose a New Local Telephone Service Provider by
(20 days prior to departure date)

Dear Telephone Service Customer:

We regret to inform you that as of (planned departure date) XYZ Company will no longer provide local telephone service in New Jersey (or their city). (Explanation of specific company circumstances).

Your action is required! You must select a new local telephone service provider as quickly as possible, AND no later than (20 days prior to planned departure date) or you may lose your local telephone service.

You can usually find a list of local telephone service providers in your local telephone directory. If you require assistance, please contact XYZ Company (current company) at (toll free number).

After selecting a different local telephone provider, you should also contact your current local toll provider and your long distance provider to ensure that neither your current local toll calling plan nor your long distance calling plan is changed as the result of your change in local service. If you wish to have any freezes placed on your account, you must also request any freezes from your local telephone service provider. If you do not contact these providers to ensure that your current calling plans remain in place after you transfer your local service, you may be charged basic rates (non-calling plan rates) for local toll and long distance calls.

XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

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Letter # 3: Sample End user Notification Letter (with acquiring TSP)

Date (30 Days prior to planned departure date)

End user Name

Address

City, NJ zip

Re: Your Service will be Transferred to (Name of Acquiring TSP) Unless You Choose
A New Local Telephone Service Provider By (20 days prior to planned departure
date)

Dear Telephone Service Customer:

We regret to inform you that as of (planned departure date), XYZ Company will
no longer provide local telephone service in (their city). (Explanation of specific
company circumstances).

You have two options:

OPTION 1: You can select a different local telephone service provider on or
before (20 days prior to planned departure date). If you do this, XYZ
company will allow your service to be transferred to your selected provider
immediately, and you will assume responsibility for any charges associated
with the transfer of your account from XYZ Company to your selected local
telephone provider.

OPTION 2: You can do nothing, and let (name of acquiring TSP)
automatically become your local telephone service provider. If you do this,
XYZ company will transfer your service to (name of acquiring TSP) on (date).

**If you do not want service from (name of acquiring TSP), your action is
required! You must choose option 1 and select a new local telephone provider as
quickly as possible, AND no later than (20 days prior to planned departure date.)**

IF YOU CHOOSE OPTION 1:

If you choose OPTION 1 and select a new local telephone service provider, you
should also contact your local toll provider and your long-distance provider. Tell them to
ensure that neither your current local toll plan nor your long distance calling plan is
changed as the result of your change in local service. If you do not contact these
providers, they may charge you different rates than before for local toll and long
distance calls. You should also request that your new local telephone provider place
any requested freezes on your account. However, if you choose OPTION 1 and select
another provider of your choice, you will incur additional charges. If you choose to
transfer your service to a telephone service provider other than (name of acquiring

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TSP), every effort will also be made to keep your telephone number and services the same as they are with (name of departing TSP).

IF YOU CHOOSE OPTION 2:

If you choose OPTION 2, you will not be charged for the change to (name of acquiring TSP).

Even if you choose OPTION 2, you will still keep the option to select another local telephone service provider in the future, but if you do select another provider in the future, there will be a delay in transferring your service to your selected provider until after the change to (name of acquiring TSP).

XYZ company will make every effort to transfer your telephone service to (name of acquiring TSP) in a way that will keep your local telephone number the same, and your existing local service and calling features will be transferred to (name of acquiring TSP).

If you have any questions regarding the discontinuance of XYZ Company's local telephone service, please call (toll free number). Questions regarding (acquiring TSP) should be directed to (toll free number of acquiring TSP). XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

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LETTER # 4 Sample End user Notification Letter (without Acquiring TSP)

Date (30 Days prior to the planned departure date)

End user Name

Address

City, NJ zip

Re: You Must Choose a New Local Telephone Service Provider by
(20 days prior to planned departure date)

Dear Telephone Service Customer:

We regret to inform you that as of (departure date), XYZ Company will no longer provide local telephone service in New Jersey (or their city). (Explanation of specific company circumstances).

Your action is required! You must select a new local telephone service provider as quickly as possible, AND no later than (20 days prior to planned departure date) or you may lose your local telephone service.

You can usually find a list of local telephone service providers in your local telephone directory. If you require assistance, please contact XYZ Company (current company) at (toll free number).

After selecting a new local telephone provider, you should also contact your current local toll provider and your long distance provider to ensure that neither your current intraLATA toll calling plan nor your long distance calling plan is changed as the result of your change in local service. If you do not contact these providers to ensure that your current calling plans remain in place after you transfer your local service, you may be charged basic rates (non-calling plan rates) for local toll and long distance calls.

XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

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APPENDIX B

Mass Migration Timeline

Note: this timeline is a summary of some of the provisions of N.J.A.C. 14:10-12.1 through 12.13. It is not intended to replace those provisions. In case of any discrepancy between the rule provisions and this timeline, the rule provisions shall govern.

Note: The days listed below refer to calendar days, unless stated otherwise.

DAYS BEFORE

PLANNED

DEPARTURE DATE

MILESTONE

- | | |
|-----------|---|
| <u>90</u> | <ul style="list-style-type: none"> ? <u>Departing TSP files an application with the Board requesting permission to depart the service territory, in accordance with N.J.A.C. 14:10-12.3(b)1.</u> ? <u>Departing TSP files an exit plan with the Board, in accordance with N.J.A.C. 14:10-12.3(b)2.</u> ? <u>Within seven business days after receiving the application, the Board notifies the TSP service list in accordance with N.J.A.C. 14:10-12.4(b).</u> |
| <u>66</u> | <ul style="list-style-type: none"> ? <u>Departing TSP transfers any NXX codes or thousand number blocks in accordance with N.J.A.C. 14:10-12.9(a); and</u> ? <u>Departing TSP unlocks all of its telephone numbers in the E-911 database, in accordance with N.J.A.C. 14:10-12.10(a).</u> |
| <u>60</u> | <ul style="list-style-type: none"> ? <u>Departing TSP provides end user information to the Board and acquiring TSP in accordance with N.J.A.C. 14:10-12.7.</u> ? <u>Departing TSP notifies its end users in accordance with N.J.A.C. 14:10-12.5(a).</u> |
| <u>55</u> | <ul style="list-style-type: none"> ? <u>If the departing TSP fails to provide notice under N.J.A.C. 14:10-12.5, the ILEC shall provide notice to end users and the Board in accordance with N.J.A.C. 14:10-12.5(e).</u> |

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- 30 ? Departing TSP provides a second notice to each end user, in accordance with N.J.A.C. 14:10-12.5(b).
- ? If the departing TSP fails to provide a notice under N.J.A.C. 14:10-12.5(b), the ILEC shall provide notice to end users and the Board in accordance with N.J.A.C. 14:10-12.5(e).

- 20 ? Cut-off date if there is an acquiring TSP, in accordance with N.J.A.C. 14:10-12.6.

- 15 ? Acquiring TSP issues valid Local Service Request (LSR), if required, in accordance with N.J.A.C. 14:10-12.11(a).

- 12 ? Either the ILEC or departing TSP shall provide Firm Order Confirmation (FOC) to acquiring TSP, in accordance with N.J.A.C. 14:10-12.11(b) or (c).

- 2 ? The ILEC or departing TSP shall notify the acquiring TSP of any discrepancies in accordance with N.J.A.C. 14:10-12.12(a).
- ? Acquiring TSP takes appropriate actions to correct discrepancies, in accordance with N.J.A.C. 14:10-12.12(b).

- 1 ? Acquiring TSP reschedules unresolved service order discrepancies for evaluation, in accordance with N.J.A.C. 14:10-12.12(c).

- 0 ? Planned departure date. All scheduled service orders have been completed.